

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 4:19cv157

DIJON SHARPE,

Plaintiff,

v.

WINTERVILLE POLICE
DEPARTMENT, Officer WILLIAM
BLAKE ELLIS, in his official
capacity only, and Officer MYERS
PARKER HELMS IV, both
individually and in his official
capacity,

Defendants.

DEFENDANTS' MOTION
FOR PARTIAL JUDGMENT
ON THE PLEADINGS

COME NOW Defendants, by and through their undersigned attorneys and pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, and respectfully request that judgment be entered in Defendants' favor on the pleadings and Plaintiff's remaining claims be dismissed with prejudice. Specifically, Plaintiff has failed to state a claim upon which relief may be granted against the official capacity Defendants, because:

1. Plaintiff has failed to allege a policy, custom, or practice of the town sufficient to establish *Monell* liability; and
2. The policy alleged by Plaintiff, if it existed, would not be unconstitutional.

In support of their Motion, Defendants rely upon the contemporaneously filed Memorandum in Support of Defendant's Motion for Partial Judgment on the Pleadings.

WHEREFORE, Defendants respectfully request that the Court grant the motion for partial judgment on the pleadings and dismiss with prejudice Plaintiff's remaining claims against the against the officers in their official capacities.

Respectfully submitted, this the 18th day of November, 2020.

/s/ Dan Hartzog Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send electronic notification to all registered CM/ECF participants.

This the 18th day of November, 2020.

/s/ Dan Hartzog Jr. _____

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